

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 151 of 1994

DR. DEVILAL SOLANKI & ORS

V/S

U.I.T. & ANR

Mr. JP JOSHI, for the petitioners.

Mr. RAJESH JOSHI]

Mr. MR SINGHVI] for the respondents

Date of Order : 16.11.2007

HON'BLE SHRI N P GUPTA, J.

HON'BLE SHRI GK VYAS, J.

ORDER

By this public interest litigation writ, the
petitioners seek the following reliefs:-

- (i) That this writ petition may kindly be allowed;
- (ii) That by an appropriate writ, order or direction the allotment of the land in question made by the respondent U.I.T., Jodhpur in favour of the respondent No.2 with regard to the Park site reserved for the Park in the A Extension, Kamla Nehru Nagar Scheme framed by the respondent-U.I.T., Jodhpur and shown in the Site Plan in colour Red may very kindly be quashed;
- (iii) That by an appropriate writ, order or direction the respondent No.2 may very kindly be restrained from raising any construction on the land in question which has been reserved for the Park in the Scheme framed by the respondent U.I.T., Jodhpur;
- (iv) That if during the pendency of the writ petition if the respondent NO.2 is able to make some construction on the land in question reserved for Park under the Scheme framed by U.I.T., the same may be ordered to be demolished;
- (v) That the respondent No.1 U.I.T., Jodhpur may very kindly be directed not to allot the land in question reserved for Park in the Scheme framed by the Trust, in future, to any other person for its use other than for Park;

The factual matrix as averred in the writ petition is that in the Scheme floated by Urban Improvement Trust being Kamla Nehru Nagar, A-Extension, various parks were earmarked which included the land in question. It is averred that notwithstanding this the land in question has been allotted by the Urban Improvement Trust to the private respondent No.2 for the purpose of construction of the assistance center for physically handicapped by Bhagwan Mahaveer Viklang Sahayata Samiti, the land being earmarked as a park, as such, the same could not be allotted.

The petition was admitted on 21.01.1994 after hearing the parties. Thereafter, when the matter came up for hearing on 03.09.2007, the matter was heard and it was felt that the land could possibly not be allotted and, therefore, considering facts and circumstances of the case, the Bench directed the Secretary, Urban Improvement Trust to remain present before this Court on September 7, 2007, to inform the Court, as to whether any alternative land was offered to the respondent-Trust, and the learned counsel appearing for the Urban Improvement Trust, assured that he will inform the Secretary to remain present in the Court. It is also noticed that the order was passed in view of the fact that in the earlier order dated 14.07.2004, this Court has observed that the Secretary, Urban Improvement Trust will take a meeting with the representatives of the respondent - Trust, with a view to offer an alternative site to the Samiti for hospital. Then on 07.09.2007, the Officer on Special Duty, U.I.T. was present in the Court and

submitted, that if the concerned respondent applies to the Trust for alternative site, the same can be offered, and the counsel for the respondent-Trust submitted, that his client will take follow up action for the purpose of selecting the alternative site which may be offered by the U.I.T., and he also submitted, that U.I.T. has power to allot the land for charitable hospitals as per the rules. The matter was adjourned, in order to see whether the concerned respondent is in a position to be allotted any alternative site.

Today, it is informed by Mr.M.R. Singhvi that respondent-Trust has already applied for being allotted alternative land, and Mr.Rajesh Joshi, appearing for the Trust submits, that the application has been received, and that application shall be considered in the ensuing meeting of the Trust, and appropriate suitable land would be allotted.

In that view of the matter, no further action is required to be taken in the matter. The writ petition is accordingly disposed of. Obviously the allotment made in favour of the private respondent, which is subject matter of this litigation, cannot be said to survive.

(GK VYAS),J.

(N P GUPTA),J.

/ashwini/